

Repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or Federal agricultural programs, qualify for the farm machinery and equipment exemption. See, 86 Ill. Adm. Code 130.305(l). (This is a GIL).

September 1, 2000

Dear Xxxxx:

This is in response to your letter dated May 3, 2000. We regret the delay in responding to your request. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We have a farm equipment dealer that would like a ruling of some specific items and their classification as a repair part or a consumable supply item.

Attached is a copy of the Regs that refers to repair or replacement parts and consumable supplies. According to our interpretation, oil filters, fuel filters, and air filters would be considered a repair or replacement part being consistent with fan belts, spark plugs, etc., and oil, as indicated, would be a consumable supply. In the past our client was audited by the Illinois Department of Revenue and instructed to charge sales tax on these various filters. Whereas, the information provided in these Regs leads us to believe that these items would be repair or replacement parts instead of consumable supply.

Also, the client has competitors in the STATE that do not charge sales tax on these items.

If you have any questions, do not hesitate to contact us.

It must first be clarified that an item, in and of itself, does not qualify for the farm machinery and equipment exemption from Retailers' Occupation Tax. Rather, it is the type of item and how it is used that determines the tax status of the sale of such item. Further, the exemption is not available unless the purchaser provides an exemption certificate to the retailer. For your reference, please find enclosed a copy of the regulation governing the exemption for "Farm Machinery and Equipment" 86 Ill. Adm. Code 130.305.

Retailers' Occupation Tax Act does not apply to sales of farm machinery and equipment, whether new, used or specially manufactured, for use or leased for use primarily in production agriculture or for use in State or Federal agricultural programs, including any individual replacement part for such machinery and equipment. See, Section 130.305(a). The purchaser must certify to the retailer by executing an exemption certificate that the farm machinery or equipment purchased will be

used primarily in the production of agriculture or in State or Federal agricultural programs. See, Section 130.305(m).

Production agriculture is "the raising of or the propagation of: Livestock, crops for sale for human consumption; crops for livestock consumption; and production seek stock grown for the propagation of feed grains and the husbandry of animals or, for the stock as a main source of providing a food product. Production Agriculture also includes animal husbandry, floriculture, aquaculture, horticulture and viticulture". See, 35 ILCS 120/2-35. The exemption only applies to items of farm machinery and equipment, and specifically excluded from the exemption are motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code. See, Section 130.305(h).

New or used repair or replacement parts do qualify for the exemption if the parts are necessary for the operation of the machine used primarily in production agriculture. Consumable supplies such as fuel, grease, oil and anti-freeze are not considered repair or replacement parts. See, Section 130.305(l). Please note, the fact that the item is a repair or replacement part necessary for the operation of machinery will not alone qualify the item for the exemption. The use of the underlying machinery must first qualify for the exemption. By way of example, the purchase of a fan belt necessary for the operation of a farm truck would not be exempt from sales tax because that machinery is not considered farm machinery or equipment use in primarily in production agriculture. By contrast, the purchase of a fan belt necessary for the operation of a tractor used primarily in the propagation of crops for sale for human consumption would be exempt from the sales tax because the machinery is being used primarily in production agriculture.

We cannot provide a ruling on the tax -exempt status of the specific items your client sells because your letter does not disclose how the items will be used. However, oil filters, fuel filters and air filters could be considered repair or replacement parts that qualify for the sales tax exemption if they are necessary for the operation of the machinery, and the machinery is used primarily in the production of agriculture. The purchaser must then execute an exemption certificate to the retailer stating that the item will be used primarily in production agriculture.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Sincerely,

Dana Deen Kinion  
Associate Counsel

DDK:msk  
Enc.